

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 ) CR-18-00258-EJD  
 PLAINTIFF, )  
 ) SAN JOSE, CALIFORNIA  
 VS. )  
 ) JULY 7, 2022  
 RAMESH "SUNNY" BALWANI, )  
 ) VOLUME 46  
 DEFENDANT. )  
 ) PAGES 7767 - 7787

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TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE EDWARD J. DAVILA  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE  
BY: JOHN C. BOSTIC  
JEFFREY B. SCHENK  
150 ALMADEN BOULEVARD, SUITE 900  
SAN JOSE, CALIFORNIA 95113  
  
BY: ROBERT S. LEACH  
1301 CLAY STREET, SUITE 340S  
OAKLAND, CALIFORNIA 94612

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTERS:

IRENE L. RODRIGUEZ, CSR, RMR, CRR  
CERTIFICATE NUMBER 8074  
LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

1        A P P E A R A N C E S: (CONT'D)

2        FOR DEFENDANT BALWANI:    ORRICK, HERRINGTON & SUTCLIFFE LLP  
3                                        BY:    SHAWN ESTRADA  
4                                        THE ORRICK BUILDING  
   405 HOWARD STREET  
   SAN FRANCISCO, CALIFORNIA 94105

5                                        BY:    JEFFREY COOPERSMITH  
6    AARON BRECHER  
   701 FIFTH AVENUE, SUITE 5600  
   SEATTLE, WASHINGTON 98104

7                                        BY:    STEPHEN CAZARES  
8    77 SOUTH FIGUEROA STREET, SUITE 3200  
   LOS ANGELES, CALIFORNIA 90017

9                                        BY:    AMY WALSH  
10     51 W 52ND STREET  
11     NEW YORK, NEW YORK 10019

12        ALSO PRESENT:               OFFICE OF THE U.S. ATTORNEY  
13                                        BY:    MADDI WACHS, PARALEGAL  
    SARA SLATTERY, PARALEGAL

14                                        UNITED STATES POSTAL INSPECTION SERVICE  
15                                        BY:    CHRISTOPHER MCCOLLOW

16                                        FEDERAL BUREAU OF INVESTIGATION  
17                                        BY:    MARIO C. SCUSSEL

18                                        UNITED STATES FOOD & DRUG  
19     ADMINISTRATION  
20                                        BY:    GEORGE SCAVDIS

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22

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1 SAN JOSE, CALIFORNIA

JULY 7, 2022

2 P R O C E E D I N G S

11:45AM 3 (COURT CONVENED AT 11:45 A.M.)

11:45AM 4 (JURY IN AT 11:45 A.M.)

11:47AM 5 THE COURT: THANK YOU. PLEASE BE SEATED. THANK YOU  
11:47AM 6 AGAIN FOR YOUR COURTESY.

11:47AM 7 LET'S GO ON THE RECORD IN THE UNITED STATES VERSUS  
11:47AM 8 RAMESH "SUNNY" BALWANI MATTER.

11:47AM 9 I SEE ALL COUNSEL.

11:47AM 10 WHY DON'T I JUST GET COUNSEL'S APPEARANCE FOR THE RECORD,  
11:47AM 11 PLEASE.

11:47AM 12 MR. SCHENK: GOOD MORNING, YOUR HONOR.

11:47AM 13 JEFF SCHENK, JOHN BOSTIC, AND ROBERT LEACH ON BEHALF OF  
11:47AM 14 THE UNITED STATES.

11:47AM 15 THE COURT: GOOD MORNING.

11:47AM 16 MR. COOPERSMITH: GOOD MORNING. JEFF COOPERSMITH  
11:48AM 17 FOR MR. BALWANI WHO IS PRESENT.

11:48AM 18 I'M JOINED BY MY COLLEAGUES, AMY WALSH, STEPHEN CAZARES,  
11:48AM 19 AARON BRECHER, AND SHAWN ESTRADA.

11:48AM 20 THE COURT: THANK YOU. WE'RE BACK IN SESSION. YOU  
11:48AM 21 MAY BE SEATED.

11:48AM 22 MR. COOPERSMITH: THANK YOU.

11:48AM 23 THE COURT: THE COURT HAS RECEIVED A NOTE FROM THE  
11:48AM 24 JURY. THE NOTE INDICATES THAT THE JURY HAS REACHED A UNANIMOUS  
11:48AM 25 VERDICT.

11:48AM 1 WHO SPEAKS FOR THE JURY, PLEASE?

11:48AM 2 JUROR: (HAND WAVED.)

11:48AM 3 THE COURT: THANK YOU. JUROR NUMBER 6, HAS THE JURY

11:48AM 4 REACHED A VERDICT?

11:48AM 5 JUROR: NUMBER 8.

11:48AM 6 THE COURT: I BEG YOUR PARDON. HAS THE JURY REACHED

11:48AM 7 A VERDICT?

11:48AM 8 JUROR: YES, WE HAVE.

11:48AM 9 THE COURT: THANK YOU. COULD YOU HAND THE VERDICT

11:48AM 10 FORM TO OUR COURTROOM DEPUTY, PLEASE.

11:48AM 11 JUROR: (HANDING.)

11:49AM 12 THE COURT: THANK YOU.

11:49AM 13 (PAUSE IN PROCEEDINGS.)

11:49AM 14 THE COURT: ALL RIGHT. THANK YOU. I'M NOW GOING TO

11:49AM 15 ASK OUR COURTROOM DEPUTY TO PUBLISH THE VERDICTS IN THIS

11:49AM 16 MATTER, THAT IS TO SAY OUR COURTROOM DEPUTY WILL NOW READ THE

11:49AM 17 VERDICTS, THE JURY'S VERDICTS INTO THE RECORD.

11:49AM 18 LADIES AND GENTLEMEN OF THE JURY, I'M GOING TO INVITE YOU

11:49AM 19 TO PLEASE LISTEN VERY CLOSELY AS OUR COURTROOM DEPUTY READS

11:49AM 20 YOUR VERDICTS.

11:49AM 21 WHEN SHE'S FINISHED, I'M GOING TO ASK THAT THE JURY BE

11:50AM 22 POLLED, THAT IS, SHE WILL ASK EACH INDIVIDUAL JUROR WHETHER OR

11:50AM 23 NOT THESE VERDICTS ARE YOUR TRUE AND CORRECT VERDICTS.

11:50AM 24 MADAM CLERK, IF YOU COULD PLEASE READ THE VERDICTS.

11:50AM 25 THE CLERK: YES, YOUR HONOR.

11:50AM 1 IN THE MATTER OF THE UNITED STATES OF AMERICA VERSUS  
11:50AM 2 RAMESH "SUNNY" BALWANI, CASE NUMBER 5:18:CR-00258-EJD.

11:50AM 3 WE, THE MEMBERS OF THE JURY IN THE ABOVE ENTITLED CASE,  
11:50AM 4 UNANIMOUSLY FIND THE DEFENDANT, RAMESH "SUNNY" BALWANI:

11:50AM 5 NUMBER 1. GUILTY OF THE CHARGE OF CONSPIRACY TO COMMIT  
11:50AM 6 WIRE FRAUD AGAINST THERANOS INVESTORS, IN VIOLATION OF 18  
11:51AM 7 UNITED STATES CODE SECTION 1349 AS CHARGED IN COUNT ONE OF THE  
11:51AM 8 INDICTMENT.

11:51AM 9 NUMBER 2. GUILTY OF THE CHARGE OF CONSPIRACY TO COMMIT  
11:51AM 10 WIRE FRAUD AGAINST THERANOS PAYING PATIENTS, IN VIOLATION OF  
11:51AM 11 18 UNITED STATES CODE SECTION 1349 AS CHARGED IN COUNT TWO OF  
11:51AM 12 THE INDICTMENT.

11:51AM 13 NUMBER 3. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST  
11:51AM 14 THERANOS INVESTORS, IN VIOLATION OF 18 UNITED STATES CODE  
11:51AM 15 SECTION 1343 IN CONNECTION WITH A WIRE TRANSFER OF \$99,990 ON  
11:51AM 16 OR ABOUT DECEMBER 30TH, 2013, AS CHARGED IN COUNT THREE OF THE  
11:51AM 17 INDICTMENT.

11:51AM 18 4. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:52AM 19 INVESTORS, IN VIOLATION OF 18 UNITED STATES CODE SECTION 1343  
11:52AM 20 IN CONNECTION WITH A WIRE TRANSFER OF \$5,349,900 ON OR ABOUT  
11:52AM 21 DECEMBER 31ST, 2013, AS CHARGED IN COUNT FOUR OF THE  
11:52AM 22 INDICTMENT.

11:52AM 23 GUILTY -- SORRY.

11:52AM 24 5. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:52AM 25 INVESTORS, IN VIOLATION OF 18 UNITED STATES CODE SECTION 1343

11:52AM 1 IN CONNECTION WITH A WIRE TRANSFER OF \$4,875,000 ON OR ABOUT  
11:52AM 2 DECEMBER 31ST, 2013 AS CHARGED IN COUNT FIVE OF THE INDICTMENT.

11:53AM 3 6. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:53AM 4 INVESTORS, IN VIOLATION OF 18 UNITED STATES CODE SECTION 1343  
11:53AM 5 IN CONNECTION WITH A WIRE TRANSFER OF \$38,336,632 ON OR ABOUT  
11:53AM 6 FEBRUARY 6TH, 2014, AS CHARGED IN COUNT SIX OF THE INDICTMENT.

11:53AM 7 7. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:53AM 8 INVESTORS, IN VIOLATION OF 18 UNITED STATES CODE SECTION 1343  
11:53AM 9 IN CONNECTION WITH A WIRE TRANSFER OF \$99,999,984 ON OR ABOUT  
11:53AM 10 OCTOBER 31ST, 2014, AS CHARGED IN COUNT SEVEN OF THE  
11:54AM 11 INDICTMENT.

11:54AM 12 8. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:54AM 13 INVESTORS, IN VIOLATION OF 18 UNITED STATES CODE SECTION 1343,  
11:54AM 14 IN CONNECTION WITH A WIRE TRANSFER OF \$5,999,997 ON OR ABOUT  
11:54AM 15 OCTOBER 31ST, 2014, AS CHARGED IN COUNT EIGHT OF THE  
11:54AM 16 INDICTMENT.

11:54AM 17 9. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:54AM 18 PAYING PATIENTS, IN VIOLATION OF 18 UNITED STATES CODE SECTION  
11:54AM 19 1343, IN CONNECTION WITH A TELEPHONE CALL FROM PATIENT B.B. TO  
11:54AM 20 THERANOS REGARDING B.B.'S LABORATORY BLOOD TEST RESULTS ON OR  
11:54AM 21 ABOUT OCTOBER 12TH, 2015, AS CHARGED IN COUNT NINE OF THE  
11:55AM 22 INDICTMENT.

11:55AM 23 10. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:55AM 24 PAYING PATIENTS, IN VIOLATION OF 18 UNITED STATES STATE CODE  
11:55AM 25 SECTION 1343, IN CONNECTION WITH A WIRE TRANSMISSION OF PATIENT

11:55AM 1 E.T.'S LABORATORY BLOOD TEST RESULTS ON OR ABOUT MAY 11TH,  
11:55AM 2 2015, AS CHARGED IN COUNT TEN OF THE INDICTMENT.

11:55AM 3 11. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:55AM 4 PAYING PATIENTS, IN VIOLATION OF 18 UNITED STATES CODE SECTION  
11:55AM 5 1343, IN CONNECTION WITH A WIRE TRANSMISSION OF PATIENT M.E.'S  
11:55AM 6 LABORATORY BLOOD TEST RESULTS ON OR ABOUT MAY 16TH, 2015, AS  
11:55AM 7 CHARGED IN COUNT ELEVEN OF THE INDICTMENT.

11:56AM 8 12. GUILTY OF THE CHARGE OF WIRE FRAUD AGAINST THERANOS  
11:56AM 9 PAYING PATIENTS, IN VIOLATION OF 18 UNITED STATES CODE SECTION  
11:56AM 10 1343, IN CONNECTION WITH A WIRE TRANSFER OF \$1,126,661 ON OR  
11:56AM 11 ABOUT AUGUST 3RD, 2015, AS CHARGED IN COUNT TWELVE OF THE  
11:56AM 12 INDICTMENT.

11:56AM 13 DATED JULY 7TH, 2022, SIGNED BY THE JURY FOREMAN.

11:56AM 14 THE COURT: THANK YOU.

11:56AM 15 MADAM CLERK, WOULD YOU PLEASE POLL THE JURY.

11:56AM 16 THE CLERK: JUROR NUMBER 1, IS THIS YOUR VERDICT AS  
11:56AM 17 READ BY THE COURT?

11:56AM 18 JUROR: I AGREE THAT THE STATEMENT IS TRUE.

11:56AM 19 THE COURT: YOU CAN BE SEATED, SIR.

11:56AM 20 AND YOU DON'T HAVE TO STAND, LADIES AND GENTLEMEN, TO  
11:57AM 21 ANSWER THE QUESTION.

11:57AM 22 THE CLERK: JUROR NUMBER 2, IS THIS YOUR VERDICT AS  
11:57AM 23 READ BY THE COURT?

11:57AM 24 JUROR: YES.

11:57AM 25 THE CLERK: JUROR NUMBER 3, IS THIS YOUR VERDICT AS

11:57AM 1 READ BY THE COURT?

11:57AM 2 JUROR: YES.

11:57AM 3 THE CLERK: JUROR NUMBER 4, IS THIS YOUR VERDICT AS

11:57AM 4 READ BY THE COURT?

11:57AM 5 JUROR: YES.

11:57AM 6 THE CLERK: JUROR NUMBER 5, IS THIS YOUR VERDICT AS

11:57AM 7 READ BY THE COURT?

11:57AM 8 JUROR: YES.

11:57AM 9 THE CLERK: JUROR NUMBER 6, IS THIS YOUR VERDICT AS

11:57AM 10 READ BY THE COURT?

11:57AM 11 JUROR: YES.

11:57AM 12 THE CLERK: JUROR NUMBER 7, IS THIS YOUR VERDICT AS

11:57AM 13 READ BY THE COURT?

11:57AM 14 JUROR: YES.

11:57AM 15 THE CLERK: JUROR NUMBER 8, IS THIS YOUR VERDICT AS

11:57AM 16 READ BY THE COURT?

11:57AM 17 JUROR: YES.

11:57AM 18 THE CLERK: JUROR NUMBER 9, IS THIS YOUR VERDICT AS

11:57AM 19 READ BY THE COURT?

11:57AM 20 JUROR: YES.

11:57AM 21 THE CLERK: JUROR NUMBER 10, IS THIS YOUR VERDICT AS

11:57AM 22 READ BY THE COURT?

11:57AM 23 JUROR: YES.

11:57AM 24 THE CLERK: JUROR NUMBER 11, IS THIS YOUR VERDICT AS

11:57AM 25 READ BY THE COURT?



11:57AM 1 JUROR: YES.

11:57AM 2 THE CLERK: JUROR NUMBER 12, IS THIS YOUR VERDICT AS  
11:57AM 3 READ BY THE COURT?

11:57AM 4 JUROR: YES.

11:57AM 5 THE COURT: THANK YOU. THE JURY HAS BEEN POLLED.  
11:57AM 6 I'LL ORDER THE VERDICT RECORDED AT THIS TIME.

11:57AM 7 LADIES AND GENTLEMEN, THANK YOU. LADIES AND GENTLEMEN OF  
11:58AM 8 THE JURY, I WANT TO MAKE SOME CLOSING COMMENTS FOR YOU.

11:58AM 9 NOW THAT THE CASE HAS BEEN CONCLUDED, SOME OF YOU MAY HAVE  
11:58AM 10 QUESTIONS ABOUT THE CONFIDENTIALITY OF THE PROCEEDINGS.

11:58AM 11 NOW THAT THE CASE IS OVER, YOU ARE FREE TO DISCUSS IT WITH  
11:58AM 12 ANY PERSON YOU CHOOSE.

11:58AM 13 BY THE SAME TOKEN, HOWEVER, I WOULD ADVISE YOU THAT YOU  
11:58AM 14 ARE UNDER NO OBLIGATION WHATSOEVER TO DISCUSS THIS CASE WITH  
11:58AM 15 ANY PERSON.

11:58AM 16 IF YOU DO DECIDE TO DISCUSS THE CASE WITH ANYONE, I WOULD  
11:58AM 17 SUGGEST THAT YOU TREAT IT WITH A DEGREE OF SOLEMNITY IN THAT  
11:58AM 18 WHATEVER YOU DO DECIDE TO SAY, YOU WOULD BE WILLING TO SAY IN  
11:58AM 19 THE PRESENCE OF THE OTHER JURORS OR UNDER OATH HERE IN OPEN  
11:58AM 20 COURT IN THE PRESENCE OF ALL OF THE PARTIES.

11:58AM 21 FINALLY, ALWAYS BEAR IN MIND THAT IF YOU DO DECIDE TO  
11:58AM 22 DISCUSS THIS CASE, THE OTHER JURORS FULLY AND FREELY STATED  
11:59AM 23 THEIR OPINIONS WITH THE UNDERSTANDING THAT THEY WERE BEING  
11:59AM 24 EXPRESSED IN CONFIDENCE.

11:59AM 25 PLEASE RESPECT THE PRIVACY OF THE VIEWS OF YOUR FELLOW

11:59AM 1 JURORS.

11:59AM 2 NOW, FINALLY, IF YOU WOULD PREFER NOT TO DISCUSS THE CASE  
11:59AM 3 WITH ANYONE, BUT IF YOU DO FEEL OR YOU ARE FEELING UNDUE  
11:59AM 4 PRESSURE TO DO SO BY ANY INDIVIDUAL, YOU SHOULD PLEASE FEEL  
11:59AM 5 FREE TO CONTACT OUR COURTROOM DEPUTY AND SHE WILL NOTIFY ME,  
11:59AM 6 AND I WILL ASSIST IN WHATEVER WAY I CAN IN THAT TRANSACTION.

11:59AM 7 LADIES AND GENTLEMEN, I ALSO WANT TO EXPRESS, ON BEHALF OF  
11:59AM 8 COUNSEL AND ON BEHALF OF ALL OF THE JUDGES IN THE NORTHERN  
11:59AM 9 DISTRICT OF CALIFORNIA, I WANT TO THANK YOU FOR YOUR SERVICE,  
11:59AM 10 YOUR JURY SERVICE. IT WAS A LONG TRIAL. WE HAD SOME HICCUPS  
11:59AM 11 IN THE TRIAL. REGRETTABLY, OUR CURRENT HEALTH SITUATION  
11:59AM 12 AFFECTED OUR TRIAL SUCH THAT WE HAD TO TAKE BREAKS. THERE WERE  
11:59AM 13 OTHER SITUATIONS THAT CAUSED US TO TAKE CERTAIN BREAKS IN THE  
12:00PM 14 CASE.

12:00PM 15 YOU RECALL EVERY DAY I REMINDED YOU OF THAT ADMONITION,  
12:00PM 16 AND I RECALL GREATLY WITH APPRECIATION WHEN I ASKED THAT  
12:00PM 17 QUESTION, NONE OF YOU, NONE OF YOU SUCCUMBED TO ANY OUTSIDE  
12:00PM 18 INFORMATION THAT MIGHT HAVE AFFECTED YOUR THOUGHT PROCESS AND  
12:00PM 19 YOUR DECISION TODAY, AND I'M GRATEFUL FOR THAT. I KNOW THAT  
12:00PM 20 WAS A DIFFICULT TASK IN TODAY'S WORLD, AND I APPRECIATE, I  
12:00PM 21 APPRECIATE YOUR INDULGENCE AND YOUR COMMITMENT TO YOUR JUSTICE  
12:00PM 22 SYSTEM.

12:00PM 23 I HOPE YOU ENJOYED YOUR SERVICE AS JURORS HERE AND YOUR  
12:00PM 24 PARTICIPATION IN YOUR JUSTICE SYSTEM.

12:00PM 25 YOU HEARD ME TALK ABOUT OUR SYSTEM EARLIER AND HOW

1 PRECIOUS IT IS TO ALL OF US, AND WE RECOGNIZE THAT EACH DAY.

2 NOW, BEFORE I EXCUSE YOU, AND I WILL EXCUSE YOU IN JUST A  
3 MOMENT, I DO WANT TO INVITE YOU, AS I DO EVERY JURY THAT I HAVE  
4 THE PRIVILEGE OF WORKING WITH, TO JOIN ME IN MY OFFICE FOR JUST  
5 A MINUTE OR TWO. YOU DON'T HAVE TO COME IF YOU DON'T WANT TO.  
6 IT'S NOT A COURT ORDER AT ALL.

7 BUT I ROUTINELY AND REGULARLY, I SHOULD SAY, ASK OUR  
8 JURORS IF THEY WOULD CARE TO TAKE FIVE MINUTES TO JOIN ME. I'D  
9 LIKE TO PERSONALLY THANK THE JURORS FOR THEIR SERVICE, AND ALSO  
10 INQUIRE OF THE JURORS THEIR THOUGHTS AND OPINIONS ABOUT WHAT  
11 WE, THE COURT, CAN DO TO ENHANCE AND MAKE BETTER YOUR SERVICE  
12 AS JURORS. WE TAKE THAT INFORMATION SERIOUSLY AS WE WANT TO DO  
13 WHAT WE CAN TO ACCOMMODATE JUROR'S INTERESTS.

14 SO YOU HAVE THAT INVITATION FROM ME. I HOPE THAT YOU'LL  
15 ACCEPT IT. IT'S NOT A COURT ORDER, AND I WILL NOT KEEP YOU  
16 LONG. I JUST WANT YOU TO KNOW THAT. BUT I WOULD WELCOME THE  
17 OPPORTUNITY TO GIVE MY PERSONAL THANKS TO EACH OF YOU.

18 SO WITH THAT, ANYTHING FURTHER, COUNSEL, BEFORE I EXCUSE  
19 THE JURY?

20 MR. SCHENK: NO. THANK YOU.

21 MR. COOPERSMITH: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU.

23 LADIES AND GENTLEMEN, YOU ARE EXCUSED. OUR COURTROOM  
24 DEPUTY WILL ASSIST YOU AS TO THOSE WHO CHOOSE TO ACCEPT MY  
25 INVITATION, I'LL MEET YOU IN MY OFFICE IN JUST A MOMENT.

12:02PM 1 COUNSEL, LET'S TAKE A BRIEF RECESS THEN IF WE COULD FOR  
12:02PM 2 ABOUT 15 MINUTES, AND THEN I'LL COME BACK AND WE'LL DISCUSS  
12:02PM 3 FURTHER ACTIONS.

12:02PM 4 (JURY OUT AT 12:02 P.M.)

12:23PM 5 (RECESS FROM 12:02 P.M. TO 12:23 P.M.)

12:23PM 6 THE COURT: WE'RE BACK ON THE RECORD.

12:23PM 7 ALL PARTIES PREVIOUSLY PRESENT ARE PRESENT AGAIN.

12:23PM 8 COUNSEL, SHOULD WE SET A SENTENCING DATE? WHAT ARE YOUR  
12:24PM 9 THOUGHTS?

12:24PM 10 I ALSO WANTED TO ASK MR. COOPERSMITH ABOUT ANY ADDITIONAL  
12:24PM 11 RULE 29 ISSUES THAT YOU WANTED TO DISCUSS.

12:24PM 12 MR. COOPERSMITH: YES, YOUR HONOR.

12:24PM 13 MR. SCHENK: YOUR HONOR, AS TO SENTENCING, YES, I  
12:24PM 14 THINK IT MAKES SENSE TO REFER MR. BALWANI TO PROBATION FOR  
12:24PM 15 PREPARATION OF THE PRESENTENCE REPORT, AND I BELIEVE THAT THE  
12:24PM 16 SCHEDULE FOR OUT OF CUSTODY DEFENDANTS IS ABOUT 120 DAYS IF I'M  
12:24PM 17 RIGHT FOR THE PSR PREPARATION. SO A SENTENCING DATE RELATIVELY  
12:24PM 18 CONSISTENT WITH THAT SCHEDULE MAKES SENSE TO THE GOVERNMENT.

12:24PM 19 THE COURT: ALL RIGHT. THANK YOU.

12:24PM 20 MR. COOPERSMITH.

12:24PM 21 MR. COOPERSMITH: THAT SOUNDS CORRECT, YOUR HONOR.

12:24PM 22 THE COURT: OKAY. THANK YOU.

12:24PM 23 LET'S ASK OUR COURTROOM DEPUTY TO LOOK AT OUR SCHEDULE.

12:24PM 24 THE CLERK: THAT WILL BE ABOUT NOVEMBER 7TH.

12:24PM 25 THE COURT: OKAY. NOVEMBER SOMETIME IS WHAT WE'RE

12:24PM 1 LOOKING AT.

12:25PM 2 MR. SCHENK: IF THE COURT HAS AVAILABILITY EITHER  
12:25PM 3 THE 7TH OR THE 14TH.

12:25PM 4 THE COURT: WE CAN ALSO SET THIS ON A SPECIAL --  
12:25PM 5 SPECIALLY SET IT ON A DAY OTHER THAN A MONDAY. IT MIGHT BE  
12:25PM 6 APPROPRIATE TO SET IT ON A DIFFERENT DAY, A TUESDAY OR A  
12:25PM 7 WEDNESDAY.

12:25PM 8 (DISCUSSION OFF THE RECORD.)

12:25PM 9 THE COURT: DO COUNSEL HAVE A PREFERENCE AS TO A DAY  
12:25PM 10 OF THE WEEK, A TUESDAY, WEDNESDAY, FRIDAY?

12:26PM 11 MR. SCHENK: NO PREFERENCE.

12:26PM 12 MR. COOPERSMITH: NO.

12:26PM 13 THE COURT: OR ANY DATE YOU WOULD LIKE TO IDENTIFY  
12:26PM 14 BEFORE THE THANKSGIVING DATE OR AFTER?

12:26PM 15 MR. SCHENK: I'M LOOKING AT THE WEEK OF THE 7TH. I  
12:26PM 16 BELIEVE THAT FRIDAY IS A HOLIDAY.

12:26PM 17 THE COURT: IT IS, RIGHT.

12:26PM 18 MR. SCHENK: BUT ANY OTHER DAY THAT WEEK IF THAT  
12:26PM 19 WORKS FOR THE COURT.

12:26PM 20 BUT IF THE COURT WAS THINKING A DIFFERENT WEEK IN  
12:26PM 21 NOVEMBER, THAT CERTAINLY WOULD WORK FOR THE GOVERNMENT.

12:26PM 22 THE COURT: DOES ANY DATE LOOK BETTER FOR US?

12:26PM 23 THE CLERK: I'M SORRY, YOUR HONOR. NO.

12:26PM 24 THE 8TH, 9TH, 15TH, 16TH, 18TH.

12:26PM 25 THE COURT: OKAY. THEY'RE ALL AVAILABLE.

12:26PM 1 MR. COOPERSMITH, YOU TRAVEL. SO ANY OF THOSE DATES THAT  
12:26PM 2 ARE MORE CONVENIENT FOR YOU AND YOUR TEAM?

12:26PM 3 MR. COOPERSMITH: LOOKING AT THE CALENDAR,  
12:26PM 4 YOUR HONOR, I DON'T HAVE ANY STRONG PREFERENCES.

12:26PM 5 I THINK THE 15TH WOULD BE A PERFECTLY GOOD AVAILABLE DATE  
12:27PM 6 FOR US.

12:27PM 7 THE COURT: OKAY.

12:27PM 8 MR. SCHENK: THAT WOULD BE FINE. THANK YOU.

12:27PM 9 THE COURT: OKAY. LET'S SET NOVEMBER 15TH,  
12:27PM 10 NOVEMBER 15TH.

12:27PM 11 SHOULD THAT BE AT 9:00 O'CLOCK IN THE MORNING? LET'S SAY  
12:27PM 12 10:00 O'CLOCK, 10:00 O'CLOCK, PLEASE. NOVEMBER 15TH AT  
12:27PM 13 10:00 A.M. FOR SENTENCING.

12:27PM 14 AND I'LL REFER MR. BALWANI TO PROBATION FOR PREPARATION OF  
12:27PM 15 A PRESENTENCE REPORT.

12:27PM 16 MR. COOPERSMITH, YOU CAN NEGOTIATE YOUR CLIENT TO THE  
12:27PM 17 PROBATION OFFICE --

12:27PM 18 MR. COOPERSMITH: YES, YOUR HONOR.

12:27PM 19 THE COURT: -- FOR THAT PURPOSE.

12:27PM 20 ALL RIGHT. RULE 29. MR. COOPERSMITH, WHAT ARE YOUR  
12:27PM 21 THOUGHTS?

12:27PM 22 MR. COOPERSMITH: YES, YOUR HONOR. YOU KNOW, WE'LL  
12:27PM 23 HAVE TO CONSIDER EXACTLY WHAT WE FILE, IF ANYTHING, BUT I'VE  
12:27PM 24 HAD A BRIEF CONVERSATION WITH MR. SCHENK AND I THINK OVER THE  
12:27PM 25 NEXT FEW DAYS WE'LL BE ABLE TO WORK OUT A BRIEFING SCHEDULE SO

12:27PM 1 THAT WE WOULD -- I THINK THE WAY IT WOULD GO IS JOINTLY SEEK AN  
12:27PM 2 EXTENSION OF THE 14 DAYS TO SET A BRIEFING SCHEDULE THAT MAKES  
12:28PM 3 SENSE FOR BOTH PARTIES AND SUBMIT THAT TO THE COURT FOR THE  
12:28PM 4 COURT'S APPROVAL AND THEN THAT WOULD BE THE SCHEDULE.

12:28PM 5 THE COURT: OKAY.

12:28PM 6 MR. SCHENK: YES, THAT'S CORRECT, YOUR HONOR. IF  
12:28PM 7 THAT'S OKAY WITH THE COURT, WE'LL SUBMIT A JOINT RECOMMENDATION  
12:28PM 8 FOR A SCHEDULE FOR THE COURT'S REVIEW.

12:28PM 9 THE COURT: OKAY. THANK YOU. I APPRECIATE THAT.

12:28PM 10 I ANTICIPATE WE'LL BE IN TRIAL AGAIN SOON IN ANOTHER TWO  
12:28PM 11 WEEKS, SO PROVIDE THE SCHEDULE.

12:28PM 12 AND I'M ALSO THINKING THAT WE'LL HAVE TO -- I'LL ADJUST  
12:28PM 13 OUR TRIAL SCHEDULE TO MEET OUR NEEDS FOR THIS CASE ACCORDINGLY.

12:28PM 14 SO I'LL JUST LET YOU KNOW ABOUT THAT.

12:28PM 15 MR. COOPERSMITH: YES. THANK YOU.

12:28PM 16 MR. SCHENK: THANK YOU.

12:28PM 17 THE COURT: ANYTHING FURTHER?

12:28PM 18 MR. SCHENK: YES, YOUR HONOR. THE GOVERNMENT WOULD  
12:28PM 19 LIKE TO BE HEARD ON BOND MODIFICATIONS, AND IF THAT'S SOMETHING  
12:28PM 20 THAT THE COURT IS WILLING TO ENTERTAIN ITSELF, I'M HAPPY TO  
12:28PM 21 MAKE SOME SUGGESTIONS NOW.

12:28PM 22 IF THIS IS A MATTER THAT THE COURT PREFERS TO REFER, WE  
12:28PM 23 CERTAINLY --

12:28PM 24 THE COURT: WHY DON'T WE TALK ABOUT IT NOW. IT  
12:28PM 25 SEEMS TIMELY NOW.

12:29PM 1 MR. SCHENK: THANK YOU.

12:29PM 2 YOUR HONOR, THE DEFENDANT'S CURRENT BOND IS \$500,000  
12:29PM 3 UNSECURED.

12:29PM 4 THE GOVERNMENT IS NOW REQUESTING THAT THE COURT MODIFY  
12:29PM 5 THAT BOND AND SET IT AT AN AMOUNT OF \$1 MILLION TO BE SECURED  
12:29PM 6 EITHER BY REAL PROPERTY OR CASH.

12:29PM 7 THE COURT SHOULD THEN REQUIRE THAT THE SECURITY BE POSTED  
12:29PM 8 WITHIN ONE WEEK OF TODAY. SO MR. BALWANI CAN LEAVE COURT UNDER  
12:29PM 9 THE SAME CONDITIONS THAT HE IS CURRENTLY, BUT THE PROPERTY OR  
12:29PM 10 THE CASH SHOULD BE POSTED WITHIN ONE WEEK OF TODAY'S DATE.

12:29PM 11 MR. BALWANI'S TRAVEL SHOULD NOW BE RESTRICTED TO THE  
12:29PM 12 NORTHERN DISTRICT OF CALIFORNIA, THOUGH HE SHOULD BE ALLOWED TO  
12:29PM 13 TRAVEL WITHIN THE UNITED STATES BEYOND THE NORTHERN DISTRICT  
12:29PM 14 WITH PRIOR APPROVAL EITHER FROM THE COURT IF THE COURT PREFERENCES,  
12:29PM 15 OR THE GOVERNMENT WOULD BE FINE IF THAT APPROVAL CAME FROM  
12:30PM 16 PRETRIAL SERVICES AS LONG AS THE GOVERNMENT RECEIVED ADVANCE  
12:30PM 17 NOTICE OF THAT TRAVEL SO THAT IF WE WANTED TO BRING SOMETHING  
12:30PM 18 TO THE COURT'S ATTENTION, THERE WOULD BE SUFFICIENT TIME TO DO  
12:30PM 19 THAT.

12:30PM 20 THE COURT: OKAY.

12:30PM 21 MR. SCHENK: MR. BALWANI, AS I UNDERSTAND IT, DOES  
12:30PM 22 NOT CURRENTLY POSSESS ANY TRAVEL DOCUMENTS, AND IT IS PART OF  
12:30PM 23 HIS CURRENT BOND THAT HE NOT APPLY FOR ANY TRAVEL DOCUMENTS.

12:30PM 24 WE WOULD JUST ASK THAT HE BE REMINDED OF THAT, THAT HE  
12:30PM 25 SHOULD NOT APPLY FOR ANY NEW TRAVEL DOCUMENTS.



12:30PM 1 THE COURT: OKAY. THANK YOU.

12:30PM 2 MR. COOPERSMITH.

12:30PM 3 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

12:30PM 4 SO, FIRST OF ALL, ON THE TRAVEL RESTRICTIONS, WE DON'T  
12:30PM 5 HAVE ANY ISSUE WITH THAT. WE THINK IT WOULD MAKE SENSE FOR THE  
12:30PM 6 TRAVEL BEYOND THE NORTHERN DISTRICT OF CALIFORNIA TO BE AT  
12:30PM 7 APPROVAL WITH PRETRIAL SERVICES. SO THAT'S AN ISSUE OF  
12:30PM 8 AGREEMENT.

12:30PM 9 WE ALSO APPRECIATE HAVING A LITTLE TIME, I THINK  
12:30PM 10 MR. SCHENK SAID A WEEK, TO PUT THE BOND PACKAGE TOGETHER. SO I  
12:30PM 11 THINK WE'RE IN AGREEMENT ON THAT.

12:31PM 12 IN MY CONVERSATIONS WITH MR. SCHENK BEFORE THE COURT CAME  
12:31PM 13 OUT ON THE BENCH, WE AGREE THAT IF THERE'S AN ISSUE WITH THAT  
12:31PM 14 TIMING, WE WOULD BRING IT TO THE COURT'S ATTENTION AND WE WOULD  
12:31PM 15 PERHAPS MODIFY THAT, BUT IT MIGHT NOT BE NECESSARY.

12:31PM 16 REGARDING THE AMOUNT, YOUR HONOR, WE WILL LOOK INTO THIS,  
12:31PM 17 BUT WE WOULD PROPOSE THAT THE AMOUNT BE THE SAME AS THE BOND  
12:31PM 18 ISSUED IN MS. HOLMES'S CASE, WHICH WAS \$500,000 RATHER THAN A  
12:31PM 19 MILLION, AND THE REASON, YOUR HONOR, IS THAT MR. BALWANI HAS  
12:31PM 20 HAD PERFECT COMPLIANCE WITH ALL OF HIS BOND CONDITIONS OVER THE  
12:31PM 21 COURSE OF THE PROCEEDINGS TO DATE, HE HAS MET ALL OF HIS  
12:31PM 22 CONDITIONS, HE'S REPORTED EVERY TIME HE NEEDED TO REPORT TO  
12:31PM 23 PRETRIAL SERVICES, HE'S A U.S. CITIZEN, HE'S NOT A CITIZEN OF  
12:31PM 24 ANY OTHER COUNTRY, INCLUDING INDIA, AND HE'S -- AT ONE POINT  
12:31PM 25 THE COURT MIGHT REMEMBER HE WAS GIVEN BACK HIS PASSPORT. WE

12:31PM 1 HELD IT AS COUNSEL, BUT WE HAD POSSESSION OF MR. BALWANI'S  
12:32PM 2 PASSPORT. IT WAS SO HE COULD GO ATTEND A MEMORIAL SERVICE FOR  
12:32PM 3 HIS MOTHER.

12:32PM 4 THAT NEVER HAPPENED BECAUSE OF THE COVID SITUATION IN  
12:32PM 5 INDIA, BUT THEN WE HANDED THE PASSPORT BACK WHEN THAT BECAME  
12:32PM 6 UNREALISTIC FOR HIM TO GO THERE, AND THEN --

12:32PM 7 THE COURT: I'M SORRY, WHO HAS THE PASSPORT NOW?

12:32PM 8 MR. COOPERSMITH: THE COURT, YOUR HONOR. PRETRIAL  
12:32PM 9 SERVICES I BELIEVE HAS IT.

12:32PM 10 THE COURT: OKAY.

12:32PM 11 MR. COOPERSMITH: HIS BROTHERS LIVE IN THE  
12:32PM 12 UNITED STATES, ONE IN OHIO AND ONE IN THE BAY AREA, AND THEY'RE  
12:32PM 13 SITTING IN THE GALLERY AND THEY HAVE ATTENDED SOME OF THE COURT  
12:32PM 14 PROCEEDINGS.

12:32PM 15 AND OBVIOUSLY, AS I SAID, THE \$500,000 WAS MS. HOLMES'S  
12:32PM 16 BOND.

12:32PM 17 THAT IS OUR REQUEST.

12:32PM 18 I WILL SAY, THOUGH, THAT I DID CONFER WITH MR. SCHENK AND  
12:32PM 19 WE UNDERSTAND THAT THE GOVERNMENT WOULD CONSIDER A MODIFICATION  
12:32PM 20 EVEN IF THE \$1 MILLION WAS IMPOSED BY THE COURT TODAY, BUT OUR  
12:32PM 21 PROPOSAL FOR NOW AS I STAND HERE IS TO HAVE THE CASH OR  
12:32PM 22 PROPERTY BOND BE 500,000 RATHER THAN A MILLION.

12:32PM 23 THE COURT: ALL RIGHT.

12:32PM 24 MR. SCHENK, IS THERE ANY NEED TO INCREASE THE AMOUNT?

12:33PM 25 MR. SCHENK: YOUR HONOR, A FEW THOUGHTS ON THAT.

12:33PM 1 FIRST, I THINK THE GOVERNMENT'S RECOMMENDATION DOES  
12:33PM 2 ACKNOWLEDGE AND ACCOUNT FOR MR. BALWANI'S COMPLIANCE DURING THE  
12:33PM 3 MULTIPLE YEARS UNDER PRETRIAL SUPERVISION.

12:33PM 4 WE'RE HAPPY TO RELEASE HIM TODAY ON THE CURRENT  
12:33PM 5 CONDITIONS. WE'RE NOT ASKING FOR ANYTHING MORE THAN THAT FOR  
12:33PM 6 THE NEXT WEEK.

12:33PM 7 THE COURT, THOUGH, SHOULD ACKNOWLEDGE THE DECISION  
12:33PM 8 CALCULUS CHANGE THAT OCCURS AFTER CONVICTION. SO THERE IS AN  
12:33PM 9 INCREASED RISK OF NONCOMPLIANCE AT THIS POINT EVEN IN LIGHT OF  
12:33PM 10 A HISTORY OF COMPLIANCE.

12:33PM 11 AND THE REASON FOR THE INCREASED AMOUNT IS NOT TO SET A  
12:33PM 12 BOND AMOUNT THAT IS UNATTAINABLE BY THE DEFENDANT, AND IF THE  
12:33PM 13 DEFENSE WERE TO PROVIDE THE GOVERNMENT WITH FINANCIAL  
12:33PM 14 INFORMATION THAT SHOWS A MILLION DOLLARS IS TANTAMOUNT TO  
12:33PM 15 DETENTION, IT IS AN AMOUNT THAT HE COULD NOT MEET, AND  
12:33PM 16 THEREFORE, FAILURE TO COMPLY WITH THE BOND WOULD REQUIRE HIM TO  
12:33PM 17 GO IN, THE GOVERNMENT, AS MR. COOPERSMITH JUST ACKNOWLEDGED TO  
12:34PM 18 THE COURT, THE GOVERNMENT IS HAPPY TO RECONSIDER THAT AMOUNT.

12:34PM 19 BUT WHAT I DON'T THINK WE SHOULD DO IS ON THE FRONT END  
12:34PM 20 ASSUME THAT HE DOESN'T HAVE SUFFICIENT ASSETS, BECAUSE OUR  
12:34PM 21 UNDERSTANDING AT LEAST DURING THE COURSE OF THE INVESTIGATION  
12:34PM 22 AND THROUGHOUT AT LEAST A PORTION OF PRETRIAL LITIGATION, OUR  
12:34PM 23 UNDERSTANDING WAS THAT MR. BALWANI HAD ASSETS SUFFICIENT TO  
12:34PM 24 COVER SUCH A BOND, AND I THINK WHAT ONE TRIES TO ACHIEVE WHEN  
12:34PM 25 SETTING THE DOLLAR AMOUNT OF THE BOND IS NOT SOMETHING THAT IS

12:34PM 1 SO HIGH THAT IT'S TANTAMOUNT TO DETENTION, BUT NOT SOMETHING  
12:34PM 2 THAT IS SO LOW THAT IT DOESN'T CREATE THE PROPER INCENTIVES TO  
12:34PM 3 MAKE FUTURE COURT APPEARANCES AND, SHOULD THERE BE A CUSTODIAL  
12:34PM 4 SENTENCE, SURRENDER FOR SERVICE OF THAT SENTENCE.

12:34PM 5 AND I THINK THE GOVERNMENT'S EFFORT AT INCREASING THE BOND  
12:34PM 6 IS REALLY AN ATTEMPT TO CALIBRATE AT THE RIGHT NUMBER,  
12:34PM 7 ACKNOWLEDGING, THOUGH, IF WE GOT THE NUMBER WRONG AND THERE ARE  
12:34PM 8 SOME BANK RECORDS OR OTHER DOCUMENTS THAT SHOW THAT WE GOT THE  
12:34PM 9 NUMBER WRONG, WE'RE HAPPY TO LISTEN AND EVALUATE.

12:34PM 10 THE COURT: SURE.

12:35PM 11 MR. COOPERSMITH, ANYTHING FURTHER?

12:35PM 12 MR. COOPERSMITH: NOTHING FURTHER, YOUR HONOR. I  
12:35PM 13 THINK YOU HAVE OUR POINTS IN MIND.

12:35PM 14 THE COURT: WELL, THE LANDSCAPE HAS CHANGED. I  
12:35PM 15 RECOGNIZE THAT. THERE'S BEEN A CONVICTION.

12:35PM 16 THE JURY HAS RETURNED THEIR VERDICTS. THEY RETURNED  
12:35PM 17 VERDICTS ON ALL COUNTS IN THIS MATTER, SO I TAKE YOUR POINT,  
12:35PM 18 MR. SCHENK, THE LANDSCAPE HAS CHANGED SOME.

12:35PM 19 I DO BALANCE THAT WITH HIS -- MR. BALWANI'S PERFORMANCE ON  
12:35PM 20 PRETRIAL FOR THE YEARS HE WAS RELEASED, AND I'M NOT GOING TO  
12:35PM 21 DISTURB ANY OF THOSE CONDITIONS OF HIS PRETRIAL RELEASE.

12:35PM 22 THANK YOU FOR TELLING ME THAT THE PASSPORT IS IN THE  
12:35PM 23 COURT'S CUSTODY THROUGH THAT OFFICE. THAT WILL REMAIN AS WELL.

12:35PM 24 I DO THINK THAT IT'S APPROPRIATE TO, TO ADJUST THE AMOUNT,  
12:35PM 25 AND RATHER THAN WAIT, I THINK \$750,000 IS AN APPROPRIATE AMOUNT

12:35PM 1 GIVEN THE CIRCUMSTANCES, AGAIN, CONSIDERING MR. BALWANI'S  
12:35PM 2 PERFORMANCE, SATISFACTORY PERFORMANCE ON PRETRIAL SERVICES, HIS  
12:35PM 3 ACKNOWLEDGEMENT OF THE CONDITIONS OF RELEASE, HIS OBEYING AND  
12:36PM 4 NOT DEFEATING ANY OF THOSE CONDITIONS.

12:36PM 5 AS I SAY, THERE ARE CONVICTIONS NOW IN THE CASE, WHICH  
12:36PM 6 DOES CHANGE THE LANDSCAPE, AND THE COURT WILL INCREASE THAT  
12:36PM 7 AMOUNT FROM 500,000 TO 750,000. THAT CAN BE SECURED BY EITHER  
12:36PM 8 CASH DEPOSIT OR A BOND SECURED BY REAL PROPERTY IN THAT AMOUNT.

12:36PM 9 AND I'LL LEAVE THAT TO YOU, MR. COOPERSMITH TO COME UP  
12:36PM 10 WITH. YOU CAN HAVE A WEEK. IS THAT SUFFICIENT TIME?

12:36PM 11 MR. COOPERSMITH: I BELIEVE SO. AGAIN, IF THERE IS  
12:36PM 12 SOME GLITCH IN THAT, I WILL CONTACT MR. SCHENK AND ULTIMATELY  
12:36PM 13 THE COURT, BUT I'M HOPING THAT WILL BE ENOUGH TIME.

12:36PM 14 THE COURT: THAT'S FINE.

12:36PM 15 MR. SCHENK: THANK YOU VERY MUCH.

12:36PM 16 THE COURT: AND THEN I'LL JUST WAIT FOR YOUR  
12:36PM 17 SUBMISSION REGARDING A BRIEFING SCHEDULE, AND WE CAN ADJUST  
12:36PM 18 THINGS AFTERWARDS.

12:36PM 19 MR. COOPERSMITH: YES, YOUR HONOR.

12:36PM 20 MR. LEACH: THANK YOU.

12:36PM 21 THE COURT: OKAY. THANK YOU VERY MUCH. THANK YOU.

12:37PM 22 (COURT CONCLUDED AT 12:37 P.M.)  
23  
24  
25

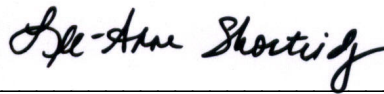
CERTIFICATE OF REPORTERS

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS OF THE  
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO  
HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS  
A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
ABOVE-ENTITLED MATTER.



IRENE RODRIGUEZ, CSR, CRR  
CERTIFICATE NUMBER 8076



LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

DATED: JULY 7, 2022